

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
REQUEST FOR PROPOSALS
Botelho Tire Site Remediation
Bowdoin, Maine

May 2004

I. General Information.

Project Description. The Maine Department of Environmental Protection ("Department") is initiating this Request for Proposals ("RFP") to solicit bids from qualified companies to remove, process into tire-derived product, and beneficially use those products from approximately 15,000 tons (about 1,500,000) whole used tires remaining at an uncontrolled tire stockpile in Bowdoin, Maine.

The Department requires that all remaining usable tires be removed from the site through this project by December 31, 2004.

The bidder must clearly show that it possesses and has committed the equipment, personnel and other resources to process all tires from the site into usable products within this time frame, that it has markets for these product(s) and that these tire derived materials will be beneficially used.

Location, Access, and Site Descriptions: The Botelho Tire Site is a privately owned uncontrolled tire stockpile in Bowdoin, Maine. The site is located on the westerly side of the West Road in the town of Bowdoin. The access point is approximately 1.2 miles north of the intersection of the West Road, West Bowdoin Road, Store Road and Bowdoinham Road. This intersection is approximately 0.5 miles from Maine Route 125 and 5.5 miles west of Exit 25 of Interstate I-95 in Bowdoinham, Maine.

Since 1999, the Department has overseen the removal of approximately 5.6 million tires from the site. Approximately 1.5 million tires remain. These are located in one large stockpile and a couple of small stockpiles scattered over the rest of the site. A site diagram and pictures of the site and remaining tire stockpiles are attached as Appendix B to this RFP.

II. Work Specifications.

On-site equipment and activity:

1. The Department will allow the Contractor to process, store and handle on-site all used tires, tire rubber and other solid waste and scrap material associated with this remediation. The Department will allow the use of tire shredders and other heavy equipment at this site.
2. Tire chips or other tire derived contract products may be stored on the site in one or more piles that do not exceed 12 feet in height or an area of 25,000 square feet per pile. Each storage pile shall be separated by a mineral soil fire break of approximately 50 feet on all sides. This distance is dependent upon site conditions and may be modified as approved by the Department.
3. Unless otherwise agreed by the Department and the municipality, hours of operation at the site may occur between 8 AM and 8 PM Monday through Saturday. No work shall take place on Sundays or legal holidays.
4. Waste generated by the processing operation shall become the property of the Contractor and shall be removed and disposed off the site in a legal manner approved by the Department. This shall include processed tire material that does not meet the bidder's product or users' specifications. The bidder shall provide the Department in writing, the method and location of disposal.
5. If it is necessary to process, handle, or store any waste or product off the site, the bidder shall identify the areas and sites where this would take place and show that compliance with regulatory standards and separation from other stockpiles and storage areas will be maintained.
6. Scrap metal encountered by the Contractor in the sorting or processing operation shall be stockpiled on the site as directed by the Department.
7. The Contractor shall maintain all fire access roads and fire breaks free from any obstructions.
8. If the Contractor encounters unexpected solid, liquid, or hazardous wastes, it shall contact the Department immediately. The Department may require the Contractor to move operations to another portion of the site until those material(s) have been evaluated, handled and disposed.
9. Final cleanup of the site shall be completed by the Contractor within 15 calendar days from the date that the Department notifies the Contractor in writing that it fines the tire shredding and removal operation to be complete. Cleanup shall consist of clearing all equipment, processing debris, and excess material generated in the processing operation from the site.

10. Before commencing operation at the site, the Contractor shall meet jointly with the Department and the town to formalize the written fire emergency and safety action plan. This plan shall be incorporated into the plan of operation for the site.

11. Tire rims removed from tires by the Contractor, may be kept by the Contractor.

Off-site requirements: If the tires are to be transported to another location for processing or storage, the Contractor must comply with all applicable regulatory and permitting requirements.

Transporter requirements: Transportation of all solid waste; including tires, tire shreds, waste rubber, and processing waste shall be by a transporter having a valid Maine DEP category A non-hazardous waste license.

III. PROPOSAL SPECIFICATIONS

Bidder Qualifications:

- 1.** Each proposal must clearly demonstrate to the Department's review committee that the bidder has the experience, equipment, transportation, staff and market resources to accomplish the project as specified in the bid response and according to the Department's timeline and work standards.
- 2.** Specifically, the bidder's written response must clearly demonstrate all of the following in order for the bidder to be found qualified for this project:
 - a. That it owns or has possession and/or control of sufficient equipment to complete all processing and removal activities on the site within not more than one calendar year from the start date of a contract,
 - b. That it has all equipment, staff and contracts sufficient to process 1,500,000 tires from this site by December 31, 2004 into usable products for which they have sufficient markets.
 - c. Evidence that it or key principal(s)/personnel have satisfactorily completed projects for public agencies equivalent in scope and character to the project outlined in this RFP.
 - d. That it has executed contracts currently in force for the sale of tire derived products sufficient to ensure that all tires at the Bowdoin site will be processed and utilized.
 - e. That its facility(ies) have necessary State and local licenses and approvals.
 - f. That it has sufficient qualified staff to accomplish all work required at the site.

- g. That it will use Department licensed non-hazardous waste transporter(s) to transport all tires, tire derived product and solid wastes.

Each bidder must submit all information required by the Department on

STATEMENTS OF QUALIFICATION, and

HISTORY OF CONTRACTS in Appendix C of this RFP.

The Department may reject bids from bidders who have previously performed work for the Department or for other public agencies in an unsatisfactory manner.

Note: Prior to commencement of the work, the Contractor shall furnish the State with Certificate(s) of Insurance verifying the coverage required below. The State reserves the right to require complete, certified copies of all required insurance policies at any time.

The Contractor shall procure and maintain for the duration of the contract the following types of insurance policies against claims which may arise from or in connection with the scope of work/service to be performed (in Rider A of the contract).

- a. Commercial General Liability (CGL) Policy - ISO Occurrence Broad Form; and*
- b. ISO Business Auto Policy (BAP) - providing automobile liability, code 1 any auto; and*
- c. Workers' Compensation and Employer's Liability Policy - as required by MRSA Title 39A.*

The Contractor shall maintain limits not less than the following: CGL and BAP - \$300,000 per occurrence; and Workers' Compensation & Employer's liability - \$100,000 each accident.

With regards to the CGL policy, the State shall be named as additional insured by endorsement. The Contractor's insurance shall be primary as respects the State. Any insurance or self insurance maintained by the State shall be considered excess of the Contractor's insurance and shall not contribute with it.

6. BID PRICE

100 POINTS

The Department shall make its selection among qualified bidders exclusively by lowest bid price per ton of tire product or shredded screened tires produced.

Each bidder must submit a fixed bid price that is based on the removal, processing and utilization of product derived from all tires at the stockpile site **by December 31, 2004.**

Bids must be expressed as dollars per ton of tire-derived product produced or dollars per ton of screened tire shreds produced.

The bidder must clearly indicate any specific conditions, assumptions, or reservations upon which it conditions its bid.

Tire rims removed from tires at the Bowdoin Site are under the control of the Department and the Department will allow the Contractor to take possession of these rims if the Contractor chooses to do so.

The Contractor shall use a Department approved tracking form. The billing shall be based on the information provided in the form. Billing must be based upon weight measurements of the tire derived product or of tire materials which have received processing consisting of, at a minimum, rough shredding and mechanical screening. Weights must be verified through a certified weight station or a temporary weighing system approved by the Department.

The Department will initiate payments to the Contractor based upon a bill from the Contractor with weight receipts showing the tonnage of tire chips delivered as specified. Ten (10) percent of the fixed price for the material will be retained by the Department until it has determined that the Contractor has completed all the contracted work, including the final cleanup, in a workmanlike manner. Billing may not occur more frequently than monthly.

IV. BID SUBMITTAL REQUIREMENTS

A. Submittal Procedures.

1. Bids must be typed on 8½ by 11 inch paper. These bids must be complete, dated and signed by a person in the company authorized to sign bid proposals and to enter into agreements and contracts. Authorized persons may be the president or executive director for a corporation, the managing partner if a partnership, the proprietor if a sole proprietorship or a person expressly authorized by such a person. A letter on company letterhead must state that authority.
2. It is the responsibility of each Bidder before submitting a bid, to (a) examine all appended and attached documents thoroughly, (b) become familiar with local conditions that may affect cost, progress, performance or furnishing of the work, (c) consider federal, state and local laws and regulations that may affect cost, progress, performance and furnishing of the work, (d) study and carefully correlate the Bidder's observations with the RFP documents, and (e) notify the Department of all conflicts, errors or discrepancies that it believes exist between the RFP documents and what it finds to be conditions on the site and to preface its bid with how its finding affect or condition its bid.
3. Proposals shall be based solely on the information contained in the RFP, including any amendments, and the bidder's own assessment of site conditions.

4. Inquiries concerning the site or requests for site visits shall be directed to Michael Parker by telephone at (207) 287-7704, by e-mail at Michael.T.Parker@maine.gov or by writing to him at:

Maine DEP/ Bureau of Remediation and Waste Mgmt.
17 State House Station, Augusta, Maine 04333-0017

5. The Department has the right to make an award without further discussion with the RFP respondents or to interview any bidder prior to the selection of a contractor. The Department has the right to reject any and all bids.
6. The successful bidder will be required to execute a State of Maine Contract of Special Services. A standard contract form for this type of procurement is appended to this RFP as Appendix A. No changes to the standard contract language in Rider B may be made. The bidder should clearly indicate in the bid that all conditions in Rider B are acceptable to it.
7. Proposals will be opened publicly at the Division of Purchases. The opening of proposals shall be open to public attendance at which time the name of each Bidder will be read aloud. No other information will be made available prior to the Department's bid evaluations and award notification. After notification of award by the Department, the bids will become public record.
8. The Department will notify all Bidders responding to this RFP of the Department's award decision in writing and prior to the effective date of the contract. This award is conditional pending approval by the Maine Contract Review Committee.

B. Submission Deadline.

Five (5) copies of a bidder's proposal are required. One copy must have original signature(s) and four copies may have photocopied signatures. The signature on the bid document must be that of a company official authorized to submit bids and enter into contracts. Sealed proposals, whether mailed or hand delivered, must arrive at the Division of Purchases at the address below no later than 2:00 p.m. on or before Thursday, June 10, 2004. The proposal must be addressed in the following manner:

BOWDOIN Tire Site Remediation Proposal

State of Maine, Division of Purchases
State Office Building Room #119
9 State House Station
Augusta, Maine 04333-0009

Proposals must be complete and submitted by the deadline. Late proposals will not be accepted and will be automatically disqualified from further consideration. Documentation or information provided after the deadline

cannot be used to qualify a bid unless submitted in response to specific questions directed to the bidder from the Department's selection committee. All proposals and any accompanying documentation become the property of the Department and will not be returned.

The proposals will be reviewed by a selection committee and evaluated based on the evaluation criteria outlined in this RFP.

C. Amendments to RFP.

The Department may amend this RFP prior to the date of the proposed bid submission. In the event it becomes necessary to amend any part of this RFP, addenda will be mailed via registered mail to all persons/firms who received the RFP. Bidders must adjust their proposals in accordance with the instructions contained in the addenda or the proposal will be considered not responsive.

APPENDIX A

Agreement Number: _____

DEPARTMENT OF ENVIRONMENTAL PROTECTION Agreement to Purchases Services

THIS AGREEMENT is made this _____ day of _____ 200, by and between the State of Maine, Department of Environmental Protection, hereinafter called "Department", and _____, located at (Mailing Address), (City) _____, Maine (Zip) _____, telephone number (207)-_____, hereinafter called "Provider", for the period of _____ to _____.

The Employer identification Number of the Provider is _____.
IRS or Social Security Number

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and furnished by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and, in consultation with the Department, perform the services, study or projects described in Rider A, and under the terms within this Agreement. The following Riders are hereby incorporated into this Agreement and made part of it by reference:

- Rider A - Specifications of Services to be Provided.
- Rider B - Method of Payment and Other Provisions.
- Rider C - Exceptions
- Rider D - Additional Regulations*

IN WITNESS WHEREOF, the Department and Provider, by their duly authorized representatives, have executed this Agreement in five (5) originals as of the day and year first above written.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____,
Commissioner

and

PROVIDER NAME

By: _____
Name & Title, Provider Representative

Total Agreement Amount: \$.00
MFASIS Coding:

Approved: _____
State Controller _____ Chair, State Purchases Review
Committee

BP54-Revised

MFASIS ACCOUNT CODING

[illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible]

RIDER A
SPECIFICATIONS OF SERVICES TO BE PROVIDED

RIDER B

METHOD OF PAYMENT AND OTHER PROVISIONS

1. **AGREEMENT AMOUNT** \$00
2. **INVOICES AND PAYMENTS** The Department will pay the provider as follows:

Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds. The Department will process approved payments within 30 days.

3. **BENEFITS AND DEDUCTIONS** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.

4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

5. **DEPARTMENT'S REPRESENTATIVE** The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.

6. **AGREEMENT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Provider shall be submitted to:

who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement.

7. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.

8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Provider of its liability under this Agreement.

10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider agrees as follows:

a. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or physical or mental disability.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability.

c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

13. **WARRANTY** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. **ACCESS TO RECORDS** The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested.

15. **TERMINATION** The performance of work under the Agreement may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.

16. **GOVERNMENTAL REQUIREMENTS** The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.

17. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

18. **STATE HELD HARMLESS** The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as “claims”) resulting from or arising out of the performance of this Agreement by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as “person”) providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department’s negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement.

19. **NOTICE OF CLAIMS** The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

20. **APPROVAL** This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

21. **LIABILITY INSURANCE** The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Department from suits. Providers insured through a “risk retention group” insurer prior to July 1, 1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.

22. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B (except for expressed exceptions to Rider B included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

26. **SET-OFF RIGHTS** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement up to any amounts due and owing to the State with regard to this Agreement, any other Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

27. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

APPENDIX B

APPENDIX C

ATTACHMENT 1

STATEMENT OF QUALIFICATION

The undersigned, under the pains and penalty of perjury, offers the following information as evidence of qualifications to perform the work as bid upon according to all the requirements and specifications of this RFP.

1. How long have you been in the business of tire processing, tire site remediation, and/or tire derived product sale under the present business name? _____
2. What other business names and periods of time have you provided the services stated in question 1. _____

3. Have you, doing business under the names of any of these companies, failed to complete any work awarded? _____YES _____NO
4. If YES, provide complete explanation: _____

5. State all equipment and its ownership/rental/lease status that you propose to commit to this project if awarded a contract. _____

6. State the personnel and supervisory resources that would be committed to this project and the experience/expertise of the supervisory personnel. _____

7. State the annual tire processing capacity that you have based upon your equipment and staffing resources and the product contract agreements you have secured. _____

Signature, *Company*

Date

ATTACHMENT 2

**HISTORY OF CONTRACTS SIMILAR TO PROPOSED
PROJECT**

(One sheet per Contract)

PROJECT NAME:

OWNER:

LOCATION:

DESCRIPTION:

CONTRACT AMOUNT:

NAME OF SUBCONTRACTORS:

SUBCONTRACTORS' CONTRACT AMOUNT:

CONTRACT COMPLETION DATE:

ACTUAL COMPLETION DATE:

PROJECT CONTACT NAME AND TELEPHONE #: